

Amendment No. 1 to HB0403

Coleman
Signature of Sponsor

AMEND Senate Bill No. 683

House Bill No. 403*

by deleting all language after the enacting clause and by substituting instead the following:

SECTION 1. Tennessee Code Annotated Section 24-9-136, is amended by deleting the section in its entirety and substituting therefore the following:

(a) Unless all of the parties have entered into a written stipulation otherwise pursuant to rule 29 of the rules of civil procedure, a deposition shall not be taken before a person who is:

(1) A party to the action or an attorney for one of the parties;

(2) A relative, including a spouse of one of the parties or of an attorney for one of the parties;

(3) An employee of one of the parties or of an attorney for one of the parties;

(4) Someone who has, or has had during the past two (2) years, a sexual relationship with one of the parties or with an attorney for one of the parties; or

(5) Someone with a financial interest in the action or its outcome.

(b)

(1) The person before whom a deposition is to be taken shall disclose to the parties in a timely fashion the existence of any facts known to such person which are relevant to factors set forth in subsection (a).

(2) A person commits a Class C misdemeanor who takes a deposition and knowingly fails or refuses to disclose any facts required by subdivision (1) of this subsection (b).

(c) Notwithstanding the provisions of this act, if a videotaped deposition has been agreed to or ordered by the court pursuant to rule 30 of the rules of civil

procedure, any lawyer or lawyer's agent may operate the video equipment pursuant to rule 28.01 and 30.02(4)(B).

(d)

(1) A deposition taken by a person described in subsection (a) is voidable at the election of any party unless:

(A) After compliance with subsection (b), the parties have entered into a stipulation pursuant to Rule 29 of the Tennessee rules of civil procedure;

(B) An order has been entered pursuant to Rule 30.02(4)(A) of the Tennessee rules of civil procedure; or

(C) The party attempting to void the deposition has violated this section directly or through a related person described in subsection (a).

(2) An election to void a deposition pursuant to this section shall be made within thirty (30) days of discovery of the violation of this section.

(e) The provisions of this section shall not apply to contracts for court reporting services for the courts, agencies or instrumentalities of the United States or the state of Tennessee.

SECTION 2. Tennessee Code Annotated, Title 24, Chapter 9, Part 1, is amended by adding the following new section:

§ 24-9-137.

Any person forbidden to take a deposition in an action pursuant to § 24-9-136 shall not record or transcribe for submission to any court or administrative tribunal any hearing before any court or administrative agency concerning such action.

SECTION 3. This act shall take effect on July 1, 2009, the public welfare requiring it.